

**Subpart 1615.4—Contract Pricing**

AUTHORITY: 5 U.S.C. 8913; 40 U.S.C. 486(c); 48 CFR 1.301.

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**1615.402 Pricing policy.**

Pricing of FEHB contracts is governed by 5 U.S.C. 8902(i), 5 U.S.C. 8906, and other applicable law. FAR subpart 15.4 will be implemented by applying its policies and procedures—to the extent practicable—as follows:

(a) For both experience-rated and community-rated contracts for which the FEHB Program premiums for the contract term will be less than the threshold at FAR 15.403–4(a)(1), OPM will not require the carrier to provide cost or pricing data in the rate proposal for the following contract term.

(b) Cost analysis will be used for contracts where premiums and subscription income are determined on the basis of experience rating.

(c)(1) A combination of cost and price analysis will be used for contracts where premiums and subscription income are based on community-rates. For contracts for which the FEHB Program premiums for the contract term will be less than the threshold at FAR 15.403–4(a)(1), OPM will not require the carrier to provide cost or pricing data. The carrier is required to submit only a rate proposal and abbreviated utilization data for the applicable contract year. OPM will evaluate the proposed rates by performing a basic reasonableness test on the information submitted. Rates failing this test will be subject to further review.

(2) For contracts with fewer than 1,500 enrollee contracts for which the FEHB Program premiums for the contract term will be at or above the threshold at FAR 15.403–4(a)(1), OPM will require the carrier to submit its rate proposal, utilization data, and the certificate of accurate cost or pricing data required in 1615.406–2. In addition, OPM will require the carrier to complete the proposed rates form containing cost and pricing data, and the Community-Rate Questionnaire, but will not require the carrier to send these documents to OPM. The carrier will keep the documents on file for

periodic auditor and actuarial review in accordance with 1652.204–70. OPM will perform a basic reasonableness test on the data submitted. Rates that do not pass this test will be subject to further OPM review.

(3) For contracts with 1,500 or more enrollee contracts for which the FEHB Program premiums for the contract term will be at or above the threshold at FAR 15.403–4(a)(1), OPM will require the carrier to provide the data and methodology used to determine the FEHB Program rates. OPM will also require the data and methodology used to determine the rates for the carrier's similarly sized subscriber groups. The carrier will provide cost or pricing data required by OPM in its rate instructions for the applicable contract period. OPM will evaluate the data to ensure that the rate is reasonable and consistent with the requirements in this chapter. If necessary, OPM may require the carrier to provide additional documentation.

(4) Contracts will be subject to a downward price adjustment if OPM determines that the Federal group was charged more than it would have been charged using a methodology consistent with that used for the similarly-sized subscriber groups (SSSGs). Such adjustments will be based on the lower of the two rates determined by using the methodology (including discounts) the carrier used for the two SSSGs.

(5) FEHB Program community-rated carriers will comply with SSSG criteria provided by OPM in the rate instructions for the applicable contract period.

(d) The application of FAR 15.402(b)(2) should not be construed to prohibit the consideration of preceding year surpluses or deficits in carrier-held reserves in the rate adjustments for subsequent year renewals of contracts based, in whole or in part, on cost analysis.

**1615.404–4 Profit.**

(a) When the pricing of FEHB Program contracts is determined by cost analysis, OPM will determine the profit or fee prenegotiation objective (service charge) portion of the contracts by use of a weighted guidelines structured

approach. The service charge so determined will be the total service charge that may be negotiated for the contract and will encompass any service charge (whether entitled service charge, profit, fee, contribution to reserves or surpluses, or any other title) that may have been negotiated by the prime contractor with any subcontractor or underwriter.

(b) OPM will not guarantee a minimum service charge.

#### **1615.404-70 Profit analysis factors.**

(a) OPM contracting officers will apply a weighted guidelines method in developing the service charge prenegotiation objective for FEHB Program contracts. The following factors, as defined in FAR 15.404-4(d), will be applied to projected incurred claims and allowable administrative expenses:

(1) *Contractor performance.* OPM will consider such elements as the accurate and timely processing of benefit claims and the volume and validity of disputed claims as measures of economical and efficient contract performance. This factor will be judged apart from the contractor's basic responsibility for contract performance and will be a measure of the extent and nature of the contractor's contribution to the FEHB Program through the application of managerial expertise and effort. Evidence of effective contract performance will receive a plus weight, and poor performance or failure to comply with contract terms and conditions a negative weight. Innovations of benefit to the FEHB Program will generally result in a positive weight; documented inattention or indifference to cost control will generally result in a negative weight.

(2) *Contract cost risk.* In assessing the degree of cost responsibility and associated risk assumed by the contractor as a factor to be considered in negotiating profit, OPM will consider such underwriting elements as the availability of margins, group size, enrollment demographics and fluctuation, and the probability of conversion and adverse selection, as well as the extent of financial assistance the carrier renders to the contract. However, the "loss carry forward basis" of experience-rated group insurance practices,

which mitigates contract risk, will likely serve to diminish this profit analysis factor in an overall determination of profit. This factor is intended to provide profit opportunities commensurate with the contractor's share of cost risks only, taking into account elements such as the adequacy and reliability of data for estimating costs.

(3) *Federal socioeconomic programs.* OPM will consider documented evidence of successful, contractor-initiated efforts to support Federal socioeconomic programs such as drug and substance abuse deterrents and concerns of the type enumerated in FAR 15.404-4(d)(iii), as a factor in negotiating profit. This factor will be assessed by considering the quality of the contractor's policies and procedures and the extent of unusual effort or achievement demonstrated. Evidence of effective support of Federal socioeconomic programs will receive a positive weight; poor support will receive a negative weight.

(4) *Capital investments.* This factor is generally not applicable to FEHB Program contracts because facilities capital cost of money may be an allowable administrative expense. Generally, this factor will be given a weight of zero. However, special purpose facilities or investment costs of direct benefit to the FEHB Program that are not recoverable as allowable or allocable administrative expenses may be taken into account in assigning a positive weight.

(5) *Cost control.* OPM will consider contractor-initiated efforts such as improved benefit design, cost-sharing features, innovative peer review, or other professional cost containment efforts as a factor in negotiating profit. OPM will use this factor to reward contractors with additional profit opportunities for self-initiated efforts to control contract costs.

(6) *Independent development.* OPM will consider any profit opportunities that may be directly related to relevant independent efforts such as the development of a unique and enhanced customer support system that is of demonstrated value to the FEHB Program and for which developmental costs